

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY THIRD DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE N.V. RAMANA

WRIT PETITION NO.17757 of 1995

Between:

Chenna Rajaiah, S/o Chenna Kistaiah, Proprietor,

M/s Sri Lakshmi Narsimha Swami Kirana & General Merchants,

Kodada, Nalgonda Dist.

..... PETITIONER

AND

1. The Deputy Commissioner, Prohibition and Excise, Mahaboobnagar Division, Mahaboobnagar.
2. The Prohibition & Excise Sub Inspector, Kodada Station, Kodada, Nalgonda Dist.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction particularly one in the nature of Writ of Mandamus declaring the impugned action of the 2nd respondent herein in seizing 65 bags of black jaggery (each bag containing 50 kgs) from the shop of the petitioner in Pr.No.224/94-95, dt.23.7.95 as illegal, arbitrary and void ab-initio and violation of Articles 14, 19 (1) (g) of the Constitution of India and further this Hon'ble Court may be pleased to direct the Respondents to release the seized goods.

Counsel for the Petitioner: MR.Y.RAMA RAO

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

The Court made the following :

ORAL ORDER:

This writ petition is filed seeking a Writ of Mandamus declaring the impugned action of the second respondent in seizing 65 bags of black jaggery (each bag containing 50 Kgs) from the shop of the petitioner in Pr.No.224/94-95, dated 23.07.1995 as illegal, arbitrary and void ab-initio and violation of Articles 14, 19(1)(g) of the Constitution of India and to direct the respondents to release the seized goods.

The case of the petitioner, in brief, is that he has been doing Kirana and General Merchant business in the name and style of M/s. Sri Lakshmi Narasimha Swami Kirana and General Merchants at Kodada under valid license and one of the items is black jaggery, which is used for domestic purpose, cattle feed and for reinforcement of buildings etc. He purchased both black and white jaggery from the wholesale sellers and selling the same to the customers who included the farmers also. After imposition of the prohibition the respondents are harassing the General and Kirana merchants on the ground that they are selling black jaggery to the people who are manufacturing illicit liquor. There is no law, which restricts selling of black jaggery, or any type of jaggery. The Home Department of Government of Andhra Pradesh also issued Memo dated 22.06.1995 directing the D.G.P., I.G and S.P to issue suitable instructions to all Superintendents of Districts that the premises of the retail merchants should not be raided. On 23.07.1995 the second respondent has visited his shop and falsely registered a case in Pr.No.224/94-95, dated 23.07.1995 alleging that the petitioner has contravened section 34(e) of A.P. Excise Act 1995 and seized 65 bags of black jaggery (each bag containing 50 Kgs), which was

purchased under valid bill No.164, dated 21.07.1995 from M/s. Bharat Trading Company, Jaggery Merchants at Chittoor. Selling of black jaggery or any type of jaggery which is meant for domestic and cattle feed and having the same in possession does not attract section 34(3) of A.P. Excise Act, as such the seizure of black jaggery is illegal and is liable to be released. On similar circumstances a batch of writ petitions were filed before this Court and this Court was pleased to release the jaggery to the petitioners therein. Therefore, it is just and necessary to release jaggery seized by the 2nd respondent. Hence this writ petition.

When the matter came up today, it is submitted by the learned Government Pleader for Prohibition and Excise and agreed to by the learned counsel for the petitioner that the subject matter of the writ petition is squarely covered by a Full Bench judgment of this Court in **Ganesh Traders v. District Collector, Karimnagar**.

Following the said judgment, this writ petition is dismissed for the same and similar reasons. No costs.

N.V. RAMANA, J

Date: 23-08-2004

Nsr/Svv

To

1. The Deputy Commissioenr, Prohibition and Excise, Mahaboobnagar Division, Mahaboobnagar.
2. The Prohibition and Excise Sub-Inspector, Kodad Station, at Kodad, Nalgonda District.
3. Two CCs to GP for Excise, High Court of A.P., Hyderabad (OUT)
4. Two CD copies.